

MEMORANDUM

TO: Mayor Craig Brown and Members of Council

CC: City Manager Office, Executive Leadership Team, City Attorney Office

FROM: Sally Bakko, Director of Policy and Governmental Relations

DATE: January 29, 2021

RE: State Pre-Filed Legislation Highlights Report, as of January 29, 2021

The following bills that may be of interest to the City of Galveston were filed as of January 29, 2021, for the 87th Texas Legislature.

PROPERTY TAX

H.B. 1391 (Middleton) – Property Tax Rate Election: provides that when the proposed tax rate of a taxing unit exceeds the no-new revenue tax rate and the voter-approval rate, should a majority of voters reject the proposed tax rate, the tax rate will be the lesser of the no-new revenue rate or voter-approval rate. The effective date of the bill is January 1, 2022.

H.B. 1392 and H.B. 1393 (Middleton) – Maximum Homestead Exemption: H.B. 1392 - for Chambers and Galveston Counties, increases the maximum allowable amount of local option residence homestead exemption adopted by a local taxing unit from 20 percent to 100 percent of the appraised value of the individual's residence. H.B. 1393 provides the 100 percent maximum local option homestead exemption for all local taxing units statewide.

SALES TAX

S.B. 402 (Johnson) – Street Maintenance Sales Tax: would, among other things, provide that: (1) for a city in which a majority of the voters voting in each of the last two consecutive elections concerning the adoption or reauthorization of the street maintenance sales tax favored adoption or reauthorization and in which the tax has not expired since the first of those two consecutive elections, the city may call an election to reauthorize the tax for a period of eight or ten years, instead of four years; and (2) revenue from the street maintenance sales tax may be used to maintain and repair: (a) a city street or sidewalk; and (b) a city water, wastewater, or stormwater system located in the width of a way of a city street.

TEXAS WINDSTORM INSURANCE ASSOCIATION

H.R. 1450 (Herrero) – Rate Increase Approval: provides the Texas Windstorm Insurance Association (TWIA) board of directors may not approve premium rate increase greater than five percent unless the proposed rate is approved by a majority of the TWIA policyholders.

H.R. 1451 (Herrero) – TWIA Board of Directors: increases the number of the board of directors to eleven (11) members (currently nine (9)); five (5) members must reside in the first-tier coastal counties (currently three (3)), with one member a licensed property and casualty agent and the other four members are TWIA policy holders nominated by the office of public insurance counsel and may not be property casualty agents. For the three (3) insurance industry representative positions on the board, the governor may make appointments from a slate submitted by the board of directors that must include at

least three more nominees than vacancies. The first-tier coastal county members, other than the property and casualty agent representative, and the three (3) board member residing more than 100 miles from the Texas coastline must represent the general public. Board members serve not more than three consecutive two-year terms, not to exceed six years. The governor may remove a board member with cause stated in writing and posted on TWIA's website. Replacements for members who leave or are removed are appointed by the governor. The bill abolishes the existing TWIA board of directors and directs the Governor to appoint the board of directors as amended by the bill no later than December 1, 2021.

PUBLIC SAFETY

H.B. 1216 (Hinojosa) – Civil Service Commission Hearings: would, among other things, modify current law to provide that:

1. for purposes of appeals to the civil service commission by a police officer:
 - a. an appeal by a police officer of a charge for an incident that involves a member of the public must also include the name and address of each individual involved;
 - b. not later than the 30th day before the date of the civil service commission hearing, the commission shall notify each individual listed in an appeal by the police officer of the date and time of the hearing, the individual's right to attend, and instructions for exercising the individual's rights related to the hearing;
 - c. not later than the fifth day before the date of the hearing, a member of the public, whether listed in the appeal or not, may provide evidence to the commission, including documentation in support of an allegation against a police officer that is the basis of a disciplinary action;
 - d. an individual named by the police officer as directly involved in the incident that is the basis of the disciplinary action may request the commission to subpoena any books, records, documents, papers, accounts, or witnesses that the individual considers pertinent to the case, and such request must be made before the 10th day before the date the commission hearing will be held;
 - e. if the commission does not subpoena the material as described in (1)(d), above, the commission shall, before the third day before the date the hearing will be held, make a written report to the individual stating the reason it will not subpoena the requested material; and
 - f. the commission may consider, if applicable, any evidence submitted by a member of the public under (1)(c), above, and any evidence provided in response to that evidence;
2. for purposes of a request to the civil service commission by a police chief to demote a police officer:
 - a. before the commission may refuse to grant a request for demotion of a police officer, the commission shall request from the police department the contact information for any individual involved in any incident leading the department to recommend demotion, including a member of the public or another police officer, and shall notify such individual that the individual may request a public hearing and present reasons why the commission should grant the department's request for demotion of the police officer;
 - b. if there are no involved individuals as described in (2)(a), above, or the commission does not receive a request for a public hearing from an involved individual before the 10th day after the date notice was given to the individual, the commission may refuse to grant the request for demotion; and
 - c. before the 10th day before the date the public hearing is held, the commission shall give an individual who is a member of the public with knowledge of a specific incident that is the basis of the recommendation of demotion of a police officer, notice of the time and place of the hearing and of the individual's right to testify;
3. if a city has adopted civil service, a meet and confer agreement between a city and a police labor union may not conflict or supersede the provisions described in (1) and (2), above; and
4. a collective bargaining agreement affecting police officers may not conflict with the provisions described in (1) and (2), above, and must implement those provisions.

H.B. 1238 (Biederman) – Firearms: would provide, among other things that: (1) a person who is not otherwise prohibited from possessing a firearm under federal or state law may, without a license, openly or concealed carry a handgun; (2) a city may not regulate the carrying of a firearm at a public park or parade, rally, or political meeting in the city; and (3) the mere possession or carrying of a handgun shall not constitute reasonable belief for a peace officer to disarm or detain a person.

H.B. 1251 (Ramos) – Whistleblower: would provide that: (1) it is a Class C misdemeanor for a person to disclose the identity of a public employee who makes a good faith report of a violation of law by the employing state or local governmental entity or another public employee to an appropriate law enforcement authority if the disclosure is made to a person who is not assisting in the investigation or prosecution of the violation of law reported by the public employee; and (2) it is an affirmative defense to prosecution if the public employee who reported the violation of law consented to the disclosure of the employee's identity.

H.B. 1254 (Shaheen) – Mental Health: would modify current law to provide that:

(1) a peace officer may, without a warrant, take a person into custody, regardless of the age of the person, if the officer: (a) has reason to believe and does believe that the person has a cognitive disability, including autism, down syndrome, traumatic brain injury, and dementia, and because of the cognitive disability there is a substantial risk of serious harm to the person or to others unless the person is immediately restrained; and (b) believes that there is not sufficient time to obtain a warrant before taking the person into custody;

(2) a peace officer who takes a person with a cognitive disability into custody as described in (1), above, shall make a good faith effort to: (a) use the least restrictive available and appropriate means of transport; and (b) include in transporting the person the person's parent, appointed guardian, managing conservator, or possessory conservator, as applicable;

(3) the peace officer shall transport the individual to the nearest appropriate inpatient mental health facility, or if not available, a mental health facility deemed suitable by the local mental health authority;

(4) a judge or magistrate that issues a warrant for emergency detention shall notify the applicable law enforcement agency of the warrant by: (a) e-mail, with the warrant attached as a secure document in PDF; or (b) secure electronic means, including satellite transmission, closed-circuit television transmission, or any other method of two-way electronic communication that is secure, available to the judge or magistrate, and provides for a simultaneous, compressed full-motion video and interactive communication of image and sound between the judge or magistrate and the agency;

(5) a law enforcement agency that receives a warrant issued under (4), above, shall serve the warrant no later than 48 hours after the agency receives the warrant;

(6) if a law enforcement agency that has a memorandum of understanding with a mental health authority to use telehealth service, a peace officer who apprehends a person under the provisions (4), above, may arrange to have a physician conduct a telehealth appointment with the apprehended person to determine whether emergency detention is necessary before transporting a person to mental health facility;

(7) if a physician conducting the telehealth appointment described in (6), above, determines that emergency detention is not required, the peace officer shall release the person;

(8) if a peace officer releases an apprehended person as described in (7), above, the peace officer shall notify the judge or magistrate who issued the warrant not later than 24 hours after the peace officer released the person; and

(9) if a peace officer is contacted to locate a person who has left a facility before the earlier of the time a preliminary examination is completed or the expiration of a 48-hour period, the peace officer must make a good faith effort to locate the person, and if located, the peace officer must: (a) reevaluate whether the person meets the criteria for apprehension as described in (1), above; and (b) if the person meets the criteria for apprehension, transport the person to an appropriate mental health facility.

H.B. 1262 (Bowers) – Trauma-Informed Training: would provide that: (1) as part of the minimum curriculum requirements, the Texas Commission on Law Enforcement shall establish and require a peace officer to complete a statewide comprehensive education and training program on trauma-informed techniques to facilitate interactions with homeless youth and adults and on the resources available to those individuals; and (2) a peace officer shall complete the program not later than the last day of the first full continuing education training period after the date the officer is licensed or the date the officer applies for an intermediate proficiency certificate, whichever date is later.

H.B. 1272 (Crockett) – No-Knock Entries: would prohibit a magistrate, including a municipal judge, from issuing an arrest or search warrant that authorizes a peace officer from entering, for the purpose of executing a warrant, into a building or other place without giving notice of the officer’s authority or purpose before entering (a no-knock entry). (This bill is identical to **H.B. 492** by **Wu** and the companion bill is **S.B. 175** by **Miles**.)

H.B. 1326 (Geren) –Expunction: would, among other things, modify current law to provide that a peace officer, firefighter, detention officer, county jailer, or emergency medical services employee is eligible for an expunction of arrest records and files if: (1) such person has completed a public safety employees treatment court program; (2) the person has not previously received an expunction of arrest records and files for completion of a public safety employees treatment court program; and (3) the person submits an affidavit to the court attesting to the fact described in (2), above.

H.B. 1350 (Minjarez) – Police Arbitration Hearing Rulings: would provide that: (1) an arbitrator selected to hear an appeal of the disciplinary suspension or dismissal of a city police officer, deputy sheriff, deputy constable, or other police officer, including an appeal under civil service rules, collective bargaining, meet and confer or other similar agreement, shall report to the Department of Public Safety (DPS), for each hearing arbitrated: (a) the ruling in the hearing; (b) the date of the ruling; (c) the sources of the arbitrator’s payment; and (d) amounts paid to the police officer as a result of the ruling; and (2) DPS shall publish on DPS’s internet website, the information reported under (1), above.

H.B. 1351 (Minjarez) – Eligibility Requirements for Arbitrators: would provide that: (1) an arbitrator selected to hear an appeal of the disciplinary suspension or dismissal of a city police officer, deputy sheriff, deputy constable, or other police officer, including an appeal under civil service rules, collective bargaining, meet and confer or other similar agreement must be a resident of, and an attorney licensed to practice in, Texas; and (2) notwithstanding any other law, a collective bargaining agreement, meet and confer agreement, or other similar agreement may not conflict with the provisions of (1), above.

S.B. 380 (West) – Body Worn Cameras: This bill known as the “Botham Jean Act,” would, among things:

- (1) require a body worn camera policy include provisions related to collection of a body worn camera, including the applicable video and audio recorded by the camera, as evidence;
- (2) amend current law to provide that, other than in a non-confrontational encounter with a person, a peace officer who participates in an investigation of the offense of intentionally or knowingly deactivating a recording device being used in the investigation shall keep a body worn camera activated for the entirety of the investigation unless the camera has been collected as evidence by another peace officer in accordance with a body worn camera policy or applicable law;
- (3) provide that body worn camera recording is confidential and not subject to disclosure under the Public Information Act if: (a) the recording documents a victim of a crime expressing a clear and unambiguous desire to not be recorded or allow the recording to be made available to the public; (b) the recording documents a person providing assistance to a law enforcement investigation and expressing a clear and unambiguous desire to not be recorded or provide the assistance in an anonymous manner; (c)

the recording documents a child younger than 17 years of age; or (d) the recording was made: (i) on the grounds of any public or private primary or secondary school; or (ii) inside a home by a peace officer who entered the home with either a warrant, with consent or under lawfully authorized exigent circumstances;

(4) provide that a person commits a felony of the third degree if the person knows that an investigation (defined as an inquiry conducted by a law enforcement agency to determine whether a person has committed an offense or an employee of a law enforcement agency has violated policy, order, rule or other regulation of the agency) is ongoing and intentionally or knowingly deactivates, orders the deactivation of, or causes to be deactivated a recording device, including a dash cam, a body worn camera, and an alarm system, being used in the investigation; and

(5) provide that it is an affirmative defense to prosecution for an offense defined in (4), above, that: (a) a peace officer, other than the peace officer to whom the body worn camera was issued, deactivated the camera in accordance with any policy adopted by the employing law enforcement agency regarding collection of evidence and applicable law; or (b) a non-peace officer deactivated the recording device at the request or command of a peace officer and such request or command was made in accordance with any policy adopted by the employing law enforcement agency regarding collection of evidence and applicable law. (This bill is identical to **H.B. 929** by **Sherman**.)

COMMUNITY AND ECONOMIC DEVELOPMENT

H.B. 1200 (C. Morales) – Historic Districts: would provide that a city that has not established a process to designate historic landmarks may adopt and enforce an ordinance, order, or other regulation the primary purpose of which is to protect or maintain historic or culturally significant structures, objects, sites, or districts. (A similar companion bill is **S.B. 416** by **Miles**.)

H.B. 1219 (Gates) – Municipal Management Districts: would, among other things, provide that the board of a municipal management district shall dissolve the district on written petition filed with the board by: (1) in a district created on or after September 1, 2017, the owners of at least two-thirds of the assessed value of the property subject to assessment or taxation by the district based on the most recent certified county property tax rolls; and (2) in a district created before September 1, 2017, the owners of at least 55 percent of the assessed value of the property subject to assessment or taxation by the district based on the most recent certified county property tax rolls.

S.B. 386 (Powell) – Economic Development Corporations: would provide that, for an economic development corporation in a city wholly or partly located in an area subject to a state of disaster declared by the governor, an authorized economic development corporation project includes expenditures found by the board of directors of the corporation to be required or suitable for use to support businesses and retain jobs during the period the area is subject to the disaster declaration.

EMERGENCY MANAGEMENT

H.B. 1239 (Sanford) – Religious Freedom: would provide that: (1) for purposes of a disaster, the Texas Religious Freedom Restoration Act is not considered a regulatory statute and may not be suspended; and (2) a government agency or public official may not issue an order that closes or has the effect of closing places of worship or in a geographic area of Texas. (Companion bill is **S.B. 251** by **Paxton**.)

S.B. 422 (Springer) – Emergency Powers Board: would, among other things: (1) establish the Emergency Powers Board (Board) consisting of the governor, the lieutenant governor, the speaker, the senate committee chair with primary jurisdiction over state affairs, and the house committee

chair with primary jurisdiction over state affairs to provide oversight during a declared state of disaster, including a declared public health disaster; (2) provide that on or after the eighth day after the date the governor issues the executive order, proclamation or regulation, the Board, by majority vote, may set an expiration date for the order, proclamation or regulation; and (3) provide that if an executive order, proclamation or regulation issued by the governor has an expiration date set by the governor and not modified by the Board within 22 days after the date the order, proclamation or regulation is issued, the governor shall convene a special legislative session to implement, modify or repeal the order, proclamation or regulation.

ELECTIONS

H.B. 1179 (Pacheco) – Polling Places: would prohibit electioneering, loitering, wearing certain badges and insignia, and posting campaign materials within 300 feet of a polling place (Note: the current distance is 100 feet).

H.B. 1183 (Dutton) – Eligibility for Public Office: would require a candidate to provide a certified copy of the candidate's pardon or other documentation evidencing removal of the disability to holding public office.

H.B. 1184 (Dutton) – Final Convictions: would provide that, in order to be eligible to be a candidate for, or elected or appointed to, a public elective office, a person must have not been finally convicted of a felony from which the person has not been pardoned or otherwise released from the resulting disabilities by a court of competent jurisdiction.

H.B. 1242 (Cole) – Early Voting: would provide that the period for early voting by personal appearance would begin on the first business day after the last day a voter registration becomes effective.

H.B. 1243 (Cole) – Early Voting: would, among other things, provide that: (1) the authority ordering an election may order early voting by personal appearance at the main early voting polling place to be conducted during an extended early voting period continuing for any number of consecutive days up to and including the day before election day; and (2) an authority that extends early voting under (1), above, shall order personal appearance voting at the main early voting polling place to be conducted for at least 12 hours on any weekday or Saturday and for at least five hours on any Sunday of the extended early voting period.

H.B. 1316 (J. Johnson) – Qualifications for Public Office: would, in relation to the eligibility to hold public office, provide that: (1) in order to be eligible to be a candidate for, or elected or appointed to, a public office in this state, a person must (among other things) have not been finally convicted of a felony or, if so convicted: (a) been fully discharged of the sentence, including any term of incarceration, parole, or supervision, or completed a period of probation ordered by any court; or (b) been pardoned or otherwise released from the resulting disabilities; and (2) a person is not considered to have been finally convicted of an offense for which the criminal proceedings are deferred without an adjudication of guilt.

MUNICIPAL COURTS

H.B. 1177 (Crockett) – Court Costs: would require the judge of any court, including municipal court, who finds that the defendant or plaintiff in the proceeding is indigent to waive all court costs, including costs on conviction, and all filing fees and other fees imposed by law on the indigent defendant or plaintiff.

S.B. 417 (Miles) – Municipal Court Reporting: would: (1) require each justice and municipal court annually to report to the Office of Court Administration for each criminal case filed with the court during the reporting year: (a) the offense charged; (b) the final disposition of the case; and (c) the defendant's race or ethnicity, as reported in the citation, affidavit establishing probable cause, or offense report filed with the case; and (2) provide that a report made under (1), above, is confidential and not subject to disclosure under the Texas Public Information Act.

OTHER FINANCE AND ADMINISTRATION

H.B. 1241 (Shine) – Annexation of Rights-of-Way: would provide that: (1) a city annexing an area on request of the owners, an area with less than 200 population by petition, an area with at least 200 population by election, or certain special districts may also annex with the area: (a) the right-of-way of a street, highway, alley or other public way or of a railway line spur, or roadbed that is contiguous to the city's boundaries and the area being annexed or a right-of-way described in (b); or (b) the right-of-way of a public road or highway connecting the area being annexed to the city by the most direct route; (2) a city may only annex a right-of-way described under (1) if the city: (a) provides written notice of the annexation to the owner of the right-of-way not later than the 61st day before the date of the proposed annexation; and (b) the owner of the right-of-way does not submit a written objection to the city before the date of the proposed annexation; and (3) certain width requirements do not apply to the annexation of a right-of-way under (1). (Companion bill is S.B. 374 by Seliger.)

UTILITIES AND ENVIRONMENT

H.B. 1191 (Goodwin) – Environmental Justice Commission: would, among other things: (1) define “permitting facility” as a facility required to obtain a permit from the Texas Commission on Environmental Quality for wastewater discharge, injection wells, and under the Solid Waste Disposal Act and Clean Air Act; (2) define “environmental justice community” as a United States census block group, as determined in accordance with the most recent United States census, for which: (a) 30 percent or more of the noninstitutionalized population consists of persons who have an income below 200 percent of the federal poverty level; or (b) 50 percent or more of the population consists of members of racial minority or ethnic minority groups; (3) create the Office of Environmental Justice (OEJ) within TCEQ to protect the public health, general welfare, and physical property of environmental justice communities in regard to issuance of permits; (4) provide that when TCEQ is considering a permit within three miles of an environmental justice community, that the OEJ shall provide a recommendation not later than the 7th day after the last day of the public comment period applicable to the permit to TCEQ on whether the permit should be issued and shall, in making its recommendation, consider: (a) whether the cumulative effects of pollution from the proposed permitted facility or change to an existing facility on the affected environmental justice community exceed the statewide average; and (b) any existing or anticipated vulnerabilities in the affected environmental justice community; and (5) provide that TCEQ shall consider the recommendation of the OEJ in making its determination about whether to issue a permit in addition to other factors required by law.

H.B. 1282 (Deshotel) – Restriction on Regulation of Utility Services: would: (1) define “regulatory authority” as the Public Utility Commission, Railroad Commission, or the governing body of a municipality, in accordance with the context; (2) define “utility” as a person, company, or corporation engaged in furnishing water, gas, telephone, light, power, or sewage service to the public; (3) prohibit a regulatory authority, planning authority, or political subdivision of this state from adopting or enforcing an ordinance, resolution, regulation, code, order, policy, or other measure that has the purpose, intent, or effect of directly or indirectly banning, limiting, restricting, discriminating against, or prohibiting the connection or reconnection of a utility service or the construction, maintenance, or installation of residential, commercial, or other public or private infrastructure for a utility service based on the type or

source of energy to be delivered to the end-use customer; (4) prohibit an entity, including a regulatory authority, planning authority, political subdivision, or utility, from imposing any additional charge or pricing difference on a development or building permit applicant for utility infrastructure that: (a) encourages those constructing homes, buildings, or other structural improvements to connect to a utility service based on the type or source of energy to be delivered to the end-use customer; or (b) discourages the installation of facilities for the delivery of or use of a utility service based on the type or source of energy to be delivered to the end-use customer; and (5) provide that the bill does not limit the ability of a regulatory authority or political subdivision to choose utility services for properties owned by the regulatory authority or political subdivision.